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June 18, 2021

Via email & ECF
Honorable Laura Taylor Swain
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

MEMO ENDORSED

Re: *United States v. David Georgescu, 19-Cr.-651 (LTS)*
Urgently Seeking an Order for Medical Treatment

Dear Judge Swain:

On behalf of David Georgescu, we ask the Court's urgent assistance in ensuring that Mr. Georgescu is receiving needed medical care. As the Court may recall, Mr. Georgescu suffers from an enlarged prostate for which he has been receiving medication since his extradition from Romania and remand to the Metropolitan Correction Center on February 28, 2020.

As the Court is aware, Mr. Georgescu's condition recently became much worse. On May 11, 2021, Mr. Georgescu was rushed from the MCC to the emergency room of a nearby hospital.¹ His experience at MCC immediately before his removal to the hospital was, frankly, horrific. Because no doctor was on duty when he experienced a medical crisis on May 10, namely the inability to urinate, and because the nurse practitioners on duty refused to perform their job, Mr. Georgescu was forced to insert his own catheter, an excruciatingly painful procedure, with no painkiller or anesthesia. It was only the following day, when the doctor returned to duty and recognized the severity of the situation, that he was finally removed to the hospital.

With the Court's assistance, I along with my associate, Clara Kalhous, Esq. visited Mr. Georgescu at the hospital on May 20, 2021. He was eternally grateful for the visit. We were shocked at his condition. We found Mr. Georgescu to be weak and frail. He still had a catheter inserted and blood was still flowing from the catheter into the attached bag. He explained to us, with the assistance of a Romanian interpreter, who joined our conference by telephone, that he had recently had multiple tests including a biopsy performed and was awaiting additional

¹ The MCC has requested that the name of the hospital be kept confidential for security reasons.

exploratory procedures. Mr. Georgescu was unable to fully explain the nature of the surgery (e.g. was the prostate removed) or the result of the biopsy. Indeed, he explained to us that the doctor had not taken the time to speak with him, nor was interpretation provided when he was treated by nurse practitioners at the hospital. A non-citizen, with limited English comprehension or speaking skills, in a medical crisis, he was shackled to the bed, guarded by two United States Marshals, and provided no explanation for the procedures performed or analysis of the results.

During our visit, he advised that he had already refused one attempt to move him back to MCC because he still had a catheter in place, and that he was afraid that MCC would not be able to provide adequate care in light of his prior experience and his current condition. The Marshals on duty assured us he would not be moved with a catheter inserted.

Upon attempting to make arrangements for a second visit to him in the hospital, we learned that Mr. Georgescu had been discharged from the hospital on May 24, 2021, and a clinical encounter note from MCC on May 25, 2021, notes that he was “given recommendation for follow up at earliest convenience for post procedure eval[uation] and BPH.” Nonetheless, as of the date of this letter, despite repeated requests from counsel, he has not been returned to the hospital.

Nor, although we mailed a signed HIPAA form to the hospital’s records department and made a direct request to MCC’s Legal Department (where a HIPAA is already on file), has the Defense received a copy of his most recent medical records in order to understand what care (if any) has been provided to him at MCC since May 25, 2021.

Since his return to MCC, with the exception of a single video call on May 27, 2021, our attempts to communicate with Mr. Georgescu via telephone, video, or in-person have been frustrated. He was placed in what was supposed to be a 14-day quarantine at MCC, meaning that no in-person visits were allowed. Inasmuch as we understood that Mr. Georgescu was to be sent back to the hospital for a check-up, we checked with MCC’s Legal Department before attempting to schedule a telephone or video call through the online scheduling system that has been put in place during the pandemic. We did not want to schedule a call that could not be completed as had occurred with our scheduled call on May 14, during Mr. Georgescu’s early days in the hospital, when MCC’s failure to alert us to his absence from the facility or to place the call, caused us to incur interpreter fees for a cancellation.

The lag in responses to our inquiry made it difficult to schedule a call but one was finally scheduled for this Friday for an hour. At the last minute, after President Biden signed the bill making Juneteenth a federal holiday, we received an email that our call would not occur because MCC would be operating on a holiday schedule with limited staffing and would not be able to honor scheduled calls.

Meanwhile, on Thursday, I received an email from Mr. Georgescu’s daughter in Romania who reported that her father is desperate. She wrote:

My father called me desperately:

1. He is kept in quarantine for 25 days, in the conditions in which the doctor did the covid test twice and told him that he is clean, can he go back to his cell, in the conditions in which he has the vaccine made ???? ?
2. He is a newly operated man, he has bleeding, he needs diapers for a daily toilet, medicine. He is barely brought pampers, the doctor does not come to see him, he is kept closed alone without the few things he has
3. I try to understand your system but it is inhuman. Is he really an animal, did he kill someone ???? You really can't be granted the minimum of human rights ???? Is he your client that you should defend or at least be interested in being somehow good in that hell he is in.

We ask the Court for its assistance in requiring the MCC to provide the most updated medical records, to explain why Mr. Georgescu has been in quarantine for 25 days, and why he is not receiving the medical attention he requires, including being returned to the hospital for a check-up. We ask the Court's assistance in compelling the MCC to provide counsel with either a video call or a telephone call with Mr. Georgescu for Monday afternoon or evening and for another call on Wednesday evening.

I suggest to the Court that Mr. Georgescu's daughter is correct in her assessment of the situation. Mr. Georgescu's civil rights are being violated and he has been treated as less than human. He is a pretrial detainee. He is presumed innocent. In a foreign land that once stood as a beacon of freedom and justice to all, he is suffering alone. No matter what the evidence against him may be, he does not deserve this.

We thank the Court for its assistance in resolving this matter as expeditiously as possible.

Respectfully submitted,

/s/

Donna R. Newman

Cc: All counsel of record via ECF
Nicole McFarland (by email)

The foregoing requests are granted, in light of the urgent circumstances described above. The Office of the United States Attorney, to which this order will be emailed in light of the federal holiday, is directed to deliver a copy of this order promptly to the MCC, which is in turn directed to provide medical records and information, and video or phone contact, as described above. The Government must file a status report detailing the arrangements that are being provided by 12:00 p.m. noon on Monday June 21, 2021.
SO ORDERED.

6/18/2021

/s/ Laura Taylor Swain, Chief USDJ